

Commodity Credit Corporation, USDA

§ 1401.3

PART 1401—COMMODITY CERTIFICATES, IN KIND PAYMENTS, AND OTHER FORMS OF PAYMENT

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AUTHORITY: 15 U.S.C. 714b and 714c; 7 U.S.C. 1445d.

SOURCE: 51 FR 36921, Oct. 16, 1986, unless otherwise noted. Redesignated at 53 FR 20290, June 3, 1988, and at 61 FR 37575, July 18, 1996.

§ 1401.1 Applicability.

This part shall be applicable to payments and loans made in accordance with the programs administered by the Commodity Credit Corporation (CCC) or the Farm Service Agency (FSA) as determined and announced by the Secretary of Agriculture or a designee of the Secretary. The definitions of the terms applicable to 7 CFR part 713 set forth at § 713.3 also shall be applicable to this part, except that the term "commodity" shall mean any agricultural commodity.

§ 1401.2 Payments in lieu of cash payments.

(a) CCC will, in accordance with applicable program provisions, make payments in a form other than in cash to persons who otherwise are eligible to receive a cash payment from CCC. Further, subject only to statutory prohibition and notwithstanding any provisions of the contract to participate in a program administered by CCC or FSA, CCC may, at its option, make payments in a form other than in cash.

(b) As determined by CCC, payments in a form other than in cash may be made in the following manner:

(1) By delivery of a commodity to a person at a warehouse or other similar facility;

(2) By transfer of negotiable warehouse receipts;

(3) By the issuance of certificates which CCC shall redeem in accordance with this part;

(4) By the acquisition and use of commodities pledged as collateral for CCC price support loans;

(5) By the use of commodities owned by CCC; and

(6) By such other methods as CCC determines appropriate, including methods to enable the producer to receive payments in order to assure that the producer receives the same total return as if the payments had been made in cash.

(c) The value of the payments made in any manner set forth in paragraph (b) shall be determined by CCC.

(d) Notwithstanding any other provision of this part, CCC may, with respect to producers who are members of a cooperative marketing association which has been determined in accordance with part 1425 of this title to be eligible to receive price support on behalf of its producer-members, enter into agreements with such producers and such cooperatives to facilitate the making of payments to such producers. Such agreements may include a provision which allows a producer to make available for the use of the cooperative the value of the non-cash payment which would otherwise be made to the producer.

§ 1401.3 Payments to persons with outstanding CCC loans.

(a) Persons with outstanding CCC loans who are eligible to receive payments from CCC, including a person authorized to receive a payment on behalf of another person, may be required to liquidate such loans in accordance with this section in order to be eligible to receive a payment authorized by § 1470.2.

(b) A person with an outstanding CCC loan must, unless otherwise agreed upon by the person and CCC, redeem and sell to CCC a quantity of the commodity pledged as collateral for a CCC loan, as determined by CCC, in an amount equal in value to the value of the payment which would otherwise be made to such person. If the person has more than one outstanding CCC loan, CCC may, by contract or otherwise, prescribe which loan collateral the person shall be required to redeem in order to receive payment. The purchase

price shall be equal to the cost of liquidating the loan or the portion of the loan for which the quantity of the commodity sold to CCC is pledged as collateral, except that, in the case of a special producer storage loan or a farmer-owned reserve loan, the purchase price will not include the amount of any unearned advance storage payments received with respect to the redeemed collateral. After redemption and the subsequent sale to CCC of the commodity pledged as collateral for such CCC loan, CCC shall make available to the person a like quantity of the commodity.

§ 1401.4 Commodity certificates.

(a) *General.* CCC may issue commodity certificates as a form of payment. Commodity certificates will bear a dollar denomination. Such certificate may be transferred, exchanged for the inventory of CCC (including the receipt in accordance with paragraph (e) of this section of loan collateral by a person to whom a loan secured by such collateral is made); or exchanged for cash, as provided for in this section. Commodity certificates shall be subject to the provisions of this part, and to any terms, conditions and restrictions provided on the certificate, which are incorporated by reference herein.

(b) *Liens, encumbrances, and State law.*

(1) The provisions of this section or the commodity certificates shall take precedence over any state statutory or regulatory provisions which are inconsistent with the provisions of this section or with the provisions of the commodity certificates.

(2) Commodity certificates shall not be subject to any lien, encumbrance, or other claim or security interest, except that of an agency of the United States Government arising specifically under Federal statute.

(3) The provisions of this paragraph (b) shall apply without regard to the identity of the holder of the certificate.

(c) *Transferability.* Any person may transfer a commodity certificate to any other person. However, any such transfer must be in the full amount of the certificate, and can be effected only by restrictive endorsement on the back of the certificate, showing the

name of the transferee and the date of the transfer, and signed by the transferor. CCC will not honor any certificate bearing any endorsement to “bearer” or any other nonrestrictive endorsement, or otherwise transferred in a manner contrary to the regulations contained in this section. The person who submits a commodity certificate to CCC shall endorse the certificate to CCC.

(d) *Exchange of commodity certificate for CCC-owned commodities—*(1) *General.* Except as otherwise provided in this paragraph and in paragraphs (f) and (g) of this section, any holder of a commodity certificate may exchange such certificate, by itself or together with other commodity certificates, for such commodities as are made available by CCC by endorsing and submitting the certificate to CCC. If a person submits commodity certificates for exchange in order that the person would be eligible to receive a quantity of a commodity which includes less than an entire unit in which the commodity is stored (e.g., less than an entire bale of cotton or an entire barrel of honey): (i) Such person may forfeit the partial unit of the commodity to CCC, or (ii) CCC may issue a check to such person for the partial unit of the commodity or permit such person to purchase the remainder of such unit at a price determined by CCC. A person may obtain information regarding commodities available for exchange and the procedure for exchange from Kansas City Commodity Office, FSA-USDA, Kansas City, MO 64141-0205.

(2) *Minimum quantities.* A holder of an amount of commodity certificates sufficient to acquire a carload lot, or other quantity as may be determined by CCC, may present such amount for exchange at any time on or before the expiration date of such certificates. A holder who is permitted to exchange the certificate for CCC-owned commodities but who does not possess commodity certificates in the amount specified in the preceding sentence may, not to exceed once during a calendar month, submit such certificates to CCC. CCC will, at CCC’s option, pay such holder by check in the amount of the certificate or transfer to such holder title to commodities owned by CCC.